

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

RECEIVED

2006 AUG 16 A 9:28

GERALD PENN,

)

Plaintiff,

)

VS.

)

VERIZON WIRELESS, INC.

)

Defendants.

)

CASE NO: 2:06 CV 738 -

JURY TRIAL DEMANDED

COMPLAINT

Comes now the Plaintiff, by and through the undersigned attorney, and hereby states his complaint as follows:

**PARTIES**

1. Plaintiff is a natural person and resident of Barbour County, Alabama. He is a "consumer" as defined by § 1681a(c) of the Fair Credit Reporting Act ("FCRA").

2. The Defendant, Verizon Wireless, Inc. ("Verizon") is a national cell phone company doing business in this district. Verizon is also a user and furnisher of credit information, as those terms are used in the FCRA.

3. This Court has jurisdiction over this matter based upon 28 U.S.C. § 1331, in that this dispute involves predominant issues of federal law. Defendants are liable to Plaintiff pursuant to the provisions of the "Consumer Credit Protection Act of 1968." 15 U.S.C. § 1601, et seq., as well as other applicable law.

**FACTUAL ALLEGATIONS**

4. Plaintiff, upon obtaining a copy of his credit reports from Equifax, Experian and Trans Union, (credit reporting agencies) found that there was inaccurate and derogatory information being reported about him.

5. The derogatory information being reported was:

Verizon account, account number 10051276453600001 - Charge off

6. Plaintiff contacted all three major credit reporting agencies and Verizon disputing the account and requesting reinvestigation of the same.

7. The Defendant did not do an adequate investigation of the disputed account and it is still being reported.

8. In fact, Verizon stated to the credit reporting agencies that the disputed account was "verified" as belonging to the Plaintiff.

9. Verizon reported to Equifax, Trans Union, Experian and others that Plaintiff was delinquent and had defaulted on the account.

10. The disputed account was not owed by Plaintiff and this fact was made known to Verizon on numerous occasions.

11. The erroneous and slanderous reporting of the account has caused Plaintiff monetary damages, embarrassment and mental anguish.

**COUNT ONE  
FAILURE TO COMPLY WITH § 1681s-2(b)  
OF THE FAIR CREDIT REPORTING ACT**

12. Plaintiff realleges the relevant foregoing paragraphs of this Complaint as if fully set out herein.

13. This is a count against Verizon for failure to comply with the FCRA and 15 U.S.C. § 1681s-2(b).

14. After receiving notice of the dispute from Plaintiff and the credit reporting bureaus, Verizon:

(a) Failed to conduct an adequate investigation with regard to the disputed information;

(b) Failed to review all relevant information provided by the consumer and provided by consumer reporting agencies;

(c) Failed to promptly investigate and report the results of the investigation of the consumer to consumer reporting agencies; continued to report the same misleading and inaccurate information complained of above and otherwise violated the FCRA.

WHEREFORE, Plaintiff demands judgment against Verizon for attorneys' fees and costs, actual and punitive damages.

**COUNT TWO  
DEFAMATION**

15. The relevant above and foregoing paragraphs are re-alleged as if fully set out herein.

16. Between at least February 2005 through the present, Verizon published to various persons, credit reporting agencies, collection agencies, creditors and attorneys, the fact that Plaintiff was delinquent in paying the disputed account.

17. Verizon published this information both orally and in writing.

18. Verizon had no factual basis for making the statements. Verizon knew this because Plaintiff notified them that the account was not his.

19. Plaintiff continued to notify Verizon by letter that the account and charges were inaccurate, and requested that Verizon retract the false statements and cease reporting this information.

20. The written publications by Verizon constitute liable per se. The verbal publications constitute stander per se.

21. Despite Plaintiff's notice, Verizon acted with malice in attempting to coerce Plaintiff into paying for charges that were not his by reporting the account to credit reporting agencies. Moreover, Verizon acted with malice by obstructing the reinvestigation of Plaintiff's consumer disputes when they advised credit reporting agencies, credit grantors, and collection agencies that the disputed account was that of the Plaintiff.

22. Despite Plaintiff's notice, the credit reporting agencies continued to report the false information about Plaintiff as stated above.

23. Verizon's acts constitute express or actual malice.

24. As a direct and proximate result of Verizon's defamation, Plaintiff has suffered loss of reputation, loss of the ability to obtain credit, mental anguish and suffering, and pecuniary damages. The losses are either permanent in nature or continuing and Plaintiff will suffer losses in the future. Verizon's actions were malicious, willful, wanton, and to the total disregard of Plaintiff's rights.

WHEREFORE Plaintiff demands judgment for compensatory and punitive damages against Defendants.

**RESPECTFULLY SUBMITTED,**

**DATED** this the 14<sup>th</sup> day of August, 2006.

  

---

**JAMES D. PATTERSON (PATJ6485)**  
**EARL P. UNDERWOOD (UNDEE6591)**

**Law Offices of Earl P. Underwood, Jr.**  
**21 South Section Street**  
**PO Box 969**  
**Fairhope Alabama 36533**  
**(251) 990-5558**  
**(251) 990-0626 (Fax)**

**PLAINTIFF DEMANDS A TRIAL BY STRUCK JURY OF THE ISSUES IN THIS CASE.**

  

---

**James D. Patterson**

**Please serve this complaint by certified mail.**